

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

Firm ID xxxxxxxx1938

Date: September 6, 2018 at 10:00 a.m.

-----X
In re

Chapter 7

Sadhana Dharry

Case No. 18-72405-las

Debtor.
-----X

NOTICE OF MOTION TO AVOID JUDICIAL LIENS

PLEASE TAKE NOTICE, that upon the annexed Affidavit of Sadhana Dharry and by her attorneys Macco & Stern, LLP, the undersigned will move this Court before the Honorable Louis A. Scarcella, Bankruptcy Judge, on the 6th day of September, 2018, at 10:00 a.m. at the United States Bankruptcy Court, Long Island Federal Courthouse, 290 Federal Plaza, Courtroom 970, Central Islip, New York 11721 or as soon thereafter as counsel can be heard, for an Order pursuant to 11 USC Section 522(f), avoiding the judicial lien of New Century Financial Services Inc., together with such other and further relief as this Court may deem just and proper.

PLEASE TAKE FURTHER NOTICE, that objections, if any, to the proposed Order must be in writing and filed with the Clerk of the Court, United States Bankruptcy Court, Eastern District of New York, 290 Federal Plaza, Central Islip, New York 11722 (a)(i) through the Bankruptcy Court's electronic filing system (in accordance with General Order M-242), which may be assessed (with password which is available by contacting the Bankruptcy Court's technical assistance at 631-712-6200, Monday through Friday, 8:30 a.m. to 5:00 p.m.) through the Internet at the Bankruptcy Court's website: www.nyeb.uscourts.gov using Netscape Navigator software version 3.0 or higher, and (ii) in portable document format (PDF) using Adobe Exchange software for conversion; or (b) if a party is unable to file electronically, such party shall submit the objection in PDF format on a diskette in an envelope with the case name, case number, type and title of document, document number of the document to which the objection refers, and the file name on the outside of the envelope; or (c) if a party is unable to file

electronically or use PDF format, such party shall submit the objection on a diskette in either Word, WordPerfect, or DOS text (ASC II) format. An objection filed by a party with no legal representation shall comply with section (b) or (c) as set forth in this paragraph. A hard copy of the objection, whether filed pursuant to section (a), (b) or (c), as set forth in this paragraph, shall be hand-delivered directly to the Chambers of the Honorable Louis A. Scarcella, and served so as to be received by Macco & Stern, LLP, 2950 Express Drive South, Suite 109, Islandia, New York 11749, no later than August 23, 2018.

PLEASE TAKE FURTHER NOTICE, that answering papers if any, shall be filed with this Court, and served upon the undersigned within three (3) days of the return date of this motion.

Dated: Islandia, New York
July 12, 2018

MACCO & STERN, LLP
Attorneys for Debtors

BY: 

Cooper J Macco

2950 Express Drive South, Suite 109
Islandia, New York 11749
(631) 549-7900

To: Office United States Trustee
Kenneth P. Silverman, Esq.
New Century Financial Services Inc.
Pressler and Pressler LLP

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

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AFFIDAVIT IN SUPPORT OF
MOTION TO AVOID JUDICIAL LIENS

STATE OF NEW YORK)
COUNTY OF SUFFOLK) ss:-

Cooper J Macco, being duly sworn, deposes and says:

1. That I am the attorney for Sadhana Dharry, who filed a petition for relief under Chapter 7 of the Bankruptcy Code on April 10, 2018, and as such am completely familiar with the facts and circumstances involved herein.

2. The debtor owns a residence located at 50 Harrison Drive, Shirley, NY 11967. A copy of the Deed is attached hereto as Exhibit A. This property has a fair market value as of the date of filing of \$203,351. Annexed hereto as Exhibit B is a copy of the real estate appraisal.

3. This property is subject to a mortgage with Caliber Home Loans, Inc. in the amount of \$448,357.25 and a second mortgage with SLS in the amount of \$45,460.19. Copies of the latest mortgage statements of each respective mortgage is attached as Exhibit C. This liability is set forth in the debtor's Bankruptcy Petition in Schedule D.

4. Pursuant to 11 USC Section 522(d)1 the debtor is entitled to a Homestead Exemption of \$10,000, 100% of fair market value, up to any applicable statutory limit, and same is listed in debtor's Schedule C, property claimed as exempt.

5. This property is subject to certain judicial liens as follows: New Century Financial Services Inc., perfected in Suffolk County on July 23, 2014, in the sum of \$27,213.59. This judgment was listed in the debtor's Bankruptcy Petition Schedule F. Annexed hereto as Exhibit D is a copy of the Judgment.

6. 11 U.S.C. Section 522(f)1 states in pertinent part as follows: "...the debtor may avoid the fixing of a lien on an interest of the debtor in property to the extent that such lien impairs an exemption to which the debtor would have been entitled...if such lien is (a) a judicial lien..."

7. The aforementioned liens impair the debtor's exemption to which the debtor would be entitled under Section 522(d)1.

8. The aforementioned judicial liens are not of a kind that is specified in Section 523(a)5.

9. The math calculations as to the impairment of my client's exemption is as follows:

Fair market value of residence	203,351.00
Less mortgage of Caliber Home Loans, Inc.	448,357.25
Less 2 nd mortgage of SLS	45,460.19
Less Homestead Exemption of debtor	10,000.00
Net Equity for Judgment Creditors	-0-

WHEREFORE, it is respectfully requested that the aforementioned judicial lien be avoided and that the Clerk of the Court remove said judgment as of record upon the filing of a certified copy of the Bankruptcy Court Order, together with such other and further relief as this Court deems just and proper.



Cooper J Macco

Sworn to before me this
12th day of July, 2018

/s/ Janine M. Zarrilli
Janine M. Zarrilli
Notary Public, State of New York
No. 01ZA5084708
Qualified in Nassau County
Commission Expires September 8, 2021

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

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AFFIDAVIT

STATE OF NEW YORK)
COUNTY OF SUFFOLK)

Sadhana Dharry, being duly sworn, deposes and says:

1. I am the Chapter 7 debtor.
2. I have reviewed all the information and representations made by my counsel on this Application to avoid the Judicial Lien of the judgment creditor because this judicial lien impairs my exemption.
3. The information contained in the Application of my counsel is true and accurate to the best of my knowledge, information and belief.



Sadhana Dharry

Sworn to before me this
12 day of July, 2018



Notary Public

Yazlyn Tió
Notary Public, State of New York
No. 01TI6163048
Qualified in Suffolk County
Commission Expires March 19, 2019